

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANIA BARBER, as Mother and Natural
Guardian of EVA BARBER, an infant,
and ANIA BARBER,

Plaintiffs,

ORDER ADOPTING REPORT
AND RECOMMENDATION
05-CV-1843(JS)(MLO)

- against -

SUNBEAM PRODUCTS, INC. and
WAL-MART STORES EAST, LP,

Defendants.

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Appearances:

For Plaintiffs:

Patrick Walsh Brophy, Esq.
McMahon, Martine & Gallagher, LLP
90 Broad Street
New York, NY 10004

For Defendants:

Christopher D. Clarke, Esq.
Leahey & Johnson, P.C.
120 Wall Street, Suite 2220
New York, NY 10005

SEYBERT, District Judge:

Upon review of the Report and Recommendation of Special
Master Magistrate Judge Joe H. Galvan,¹ dated September 19, 2006,
to which no party has objected, the Court hereby ADOPTS the Report
and Recommendation in its entirety.

On September 8, 2006, Judge Galvan held a hearing at

¹ By Order dated April 7, 2006, and with the consent of the
Plaintiff Avia Barber, this Court appointed Magistrate Judge Joe
H. Galvan as a Special Master without compensation pursuant to
Rule 53(i).

which Plaintiff Ania Barber and infant-Plaintiff Eva Barber personally appeared and Plaintiffs' and Defendant Sunbeam's attorneys appeared by telephone. At the hearing, Judge Galvan examined Eva Barber's left hand and spoke with both Ania and Eva Barber about the injury. Based on the hearing and a review of the pleadings and the doctor's report, Judge Galvan found both the settlement and Mr. Brophy's attorney's fees to be reasonable. Judge Galvan recommended to this Court that the terms of the settlement be approved and an order be entered dismissing this action upon the terms of the settlement. No party has objected to Judge Galvan's Report and Recommendation, and this Court is in full agreement with Judge Galvan's recommendation.

Accordingly, the Court ADOPTS the Report and Recommendation in its entirety.

In addition, it is hereby

ORDERED, that the Plaintiff, Ania Barber, as mother and natural guardian of the infant-Plaintiff, Eva Barber, be and is hereby authorized and empowered to settle the action of the infant-Plaintiff Eva Barber, in the sum of \$45,000.00, to be paid by Defendant Sunbeam Products, Inc., and to execute and deliver all papers necessary to accomplish the settlement and to effect the collection of the proceeds thereof;

AND IT IS ORDERED, that the settlement in the sum of \$45,000.00 shall represent the full and final settlement, with

prejudice and without costs, interest or disbursements, of the infant-Plaintiff's claim against the Defendants herein and also against any other person or entity against which any claim was or could have been brought herein;

AND IT IS ORDERED, that Ania Barber, as mother and natural guardian of the infant-Plaintiff, Eva Barber, is authorized and empowered to execute general releases and to sign any and all papers and documents necessary to accomplish the settlement and to release the Defendants, and any other person or entity against which any claim which was or could have been brought herein, from any further liability;

AND IT IS ORDERED, that the sum of \$5,690.91 be paid from the proceeds of the settlement to reimburse McMahon, Martine & Gallagher, LLP, attorneys for the Plaintiffs, for disbursements incurred in the course of representing the Plaintiffs in this matter;

AND IT IS ORDERED, that the sum of \$13,100.00 be paid from the proceeds of the settlement to McMahon, Martine & Gallagher, LLP, attorneys for the Plaintiffs, as and for their legal fee;

AND IT IS ORDERED, that the balance of the settlement proceeds, to wit, \$26,209.09, shall be paid to Ania Barber, as mother and natural guardian of the infant-Plaintiff, Eva Barber, an infant under the age of eighteen years, who was born May 11, 2000,

jointly with an officer of Pioneer Bank, 3831 E. Lohman Avenue, Las Cruces, New Mexico 88011, to be deposited in an insured deposit account at Pioneer Bank, bearing the highest interest rate available. Except upon further order of this Court, no withdrawals shall be made from said account until the infant-Plaintiff reaches the age of eighteen years;

AND IT IS ORDERED, that Pioneer Bank shall, upon demand of the infant-Plaintiff therefore and without further Court order, pay to infant-Plaintiff when she reaches the age of eighteen years, all monies, including the interest accrued thereon, upon presentation of proper proof of age;

AND IT IS FURTHER ORDERED, that the filing of a bond shall be dispensed herein.

SO ORDERED

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
December 5, 2006